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PTO/SB/21 (6-99)

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	10/714,195
		Filing Date	November 14, 2003
		First Named Inventor	Joffre B. Baker, et al.
		Group/Art Unit	1634
		Examiner Name	Unassigned
Total Number of Pages in This Submission	28 pgs.	Attorney Docket Number	39740-0005A

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input checked="" type="checkbox"/> Assignment Papers <i>(for an Application)</i>	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Petition (Non-Signing Inventor)	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Statement by Person Signing on Behalf of Non-Signing Inventor	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group <i>(Appeal Notice, Brief, Reply Brief)</i>
<input checked="" type="checkbox"/> Statement of Facts in Support of Filing on Behalf of Non-Signing Inventor	<input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition	<input type="checkbox"/> Proprietary Information
<input checked="" type="checkbox"/> Added page to Combined Declaration and POA for Signature by Person with Sufficient Proprietary Interest	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Statement of Facts	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Additional Enclosure(s) <i>(please identify below):</i>
<input checked="" type="checkbox"/> Declaration	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Exhibits A-D and a Return Postcard Receipt
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Small Entity Statement	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	<input type="checkbox"/> Request for Refund	
<input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		
AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT 08-1641 FOR ANY FEES DUE IN CONNECTION WITH THIS PAPER.		

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

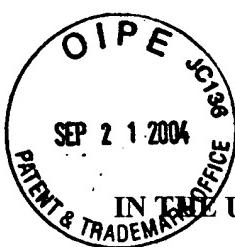
Firm or Individual name	Ginger R. Dreger, Reg. No. 33,055 HELLER EHRLMAN WHITE & McAULIFFE LLP		
Signature			
Date	September 21, 2004	Customer Number:	25213

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service (EL 993 691 827 US) under 37 C.F.R. §1.10 on the date indicated below and addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this date: September 21, 2004.

Typed or printed name	Sandra Puljic		
Signature		Date	September 21, 2004

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Baker, et al. Docket No.: 39740-0005A
Serial No.: 10/714,195 Group Art Unit: 1634
Filing Date: November 14, 2003 Examiner: Unassigned
For: GENE EXPRESSION PROFILING OF EGFR POSITIVE CANCER

MS: Petitions

Commissioner for Patents
P.O. Box 1450
Alexandra, VA 22313-1450

**STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF
OF NON-SIGNING INVENTOR (37 C.F.R. §1.47)**

The specification of which:
(check and complete (a), (b), or (c))

09/24/2004 DTESEM1 00000023 081641 10714195
01 FC:1460 130.00 DA

- (a) is attached hereto.
- (b) was filed on November 14, 2003 as Application Serial No. 10/714,195 and was amended on _____ (if applicable).
- (c) was described and claimed in International Application No. _____ filed on _____ and as amended on _____ (if any).

Dear Sir:

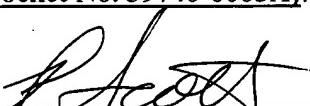
This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the non-signing inventor for the above-identified patent application before deposit thereof in the Patent and Trademark Office.

The exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration are set forth in the Statement of Facts by Ginger R. Dreger in Support of Petition Under 37 CFR 1.47(a), and its Exhibits; and the Declaration of Cheryl Rogers in Support of Petition under 37 CFR 1.47(a), and its Exhibits, which are filed along with and constitute part of the present Statement of Facts.

- Because signing on behalf of the nonsigning inventor is by a person or entity showing a sufficient proprietary interest, this statement also recites facts as to why this application was necessary to preserve the rights of the parties or to prevent irreparable damage in the attached Statement By Person Signing on Behalf of Non-Signing Inventor Establishing Proprietary Interest, which is filed along with and forms part of the present Statement of Facts.
- This statement is being made by the available person having first-hand knowledge of the facts recited therein.
- a fee of \$130.00 as set forth in §1.17(i) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

- Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of \$130.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 08-1641 (Docket No. 39740-0005A).

Date: September 17, 2004



Randy Scott, Ph.D.
Chairman and CEO
Genomic Health, Inc.
(On behalf of non-signing inventor)

NOTE: This statement "must be signed, where at all possible, by a person having first-hand knowledge of the facts recited therein." M.P.E.P. §409.03(d), 7th ed. If different persons have first-hand knowledge of different facts, then a declaration from each such person as to those facts he or she knows should be submitted separately.

NOTE: Copies of documentary evidence, such as certified mail return receipt, cover letter of instructions, telegrams, etc. that support a finding that the nonsigning inventor could not be reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of act as opposed to conclusions. M.P.E.P. §409.03(d), 7th ed.

CERTIFICATE OF EXPRESS MAILING

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Express Mail Label: **EL 993 691 827 US**

Typed or printed name	Sandra Puljic		
Signature	Sandra Puljic	Date	9.21.04

O I P E
Practitioner's Docket No. 39740-0005A **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Non-provisional application of Baker, et. al.

Serial No. 10/714,195

Filed: 11/14/2003

For: GENE EXPRESSION PROFILING OF EGFR POSITIVE CANCER

Group No.: 1634

Examiner: Unassigned

**Mail Stop: Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

COMPLETION OF FILING REQUIREMENTS—NONPROVISIONAL APPLICATION

- I.** This is in response to the Notice to File Missing Parts of Nonprovisional Application mailed 02/24/2004.
A copy of the Notice to File Missing Parts of Nonprovisional Application is enclosed.

DECLARATION OR OATH

- II.** No declaration or oath was filed. Enclosed is the original declaration or oath for this application.

POWER OF ATTORNEY

- III.** This application claims priority under 35 USC 119(e) of US Provisional Application No. 60/427,090, filed November 15, 2002.

COMPLETION FEES

- IV.** Surcharge Fee: Late Oath or Declaration Surcharge {37 C.F.R. 1.16(e)} \$65.00
Extension Fees: Extension for Response within fifth month {37 CFR 1.17(a)(5)} \$1,005.00
Total completion fees: \$1,070.00

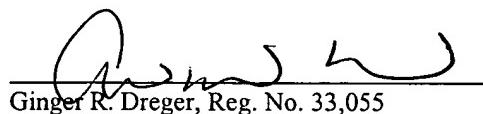
V. TOTAL FEE DUE \$1,070.00

PAYMENT OF FEES

- VI.** Charge Account No. 08-1641 (Docket No. 39740-0005A) in the amount of \$1,070.00.
Please charge Account No. 08-1641 (Docket No. 39740-0005A) for any fees that may be due by this paper.

09/24/2004 DTESEM1 00000022 081641 10714195

02 FC:2255 1005.00 DA


Ginger R. Dreger, Reg. No. 33,055

Heller Ehrman White & McAuliffe LLP
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Menlo Park, CA 94025
(650) 324-7000 / Customer No. 25213

09-22-04
JFS

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER 10/714,195	FILING OR 371 (c) DATE 11/14/2003	FIRST NAMED APPLICANT Joffre B. Baker	ATTORNEY DOCKET NUMBER 39740-0005A
SEP 21 2004 PATENT & TRADEMARK OFFICE RECEIVED		CONFIRMATION NO. 5745 FORMALITIES LETTER	
25213 HELLER EHRMAN WHITE & MCALLISTER LLP 275 MIDDLEFIELD ROAD MENLO PARK, CA 94025-3506		FEB 27 2004 HEWM LLP - P.A. *OC000000011957555*	

Date Mailed: 02/24/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted***Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$65** for a Small Entity

- **\$65** Late oath or declaration Surcharge.

09/24/2004 DTESEM1 00000022 081641 10714195

01 FC:2051 65.00 DA

Replies should be mailed to: Mail Stop Missing Parts
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*A copy of this notice **MUST** be returned with the reply.*

ABC
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE